

\* The original of this document contains information which is subject to withholding from disclosure under 5 U.S.C. 552. Such material has been deleted from this copy and replaced with XXXXXX's.

November 14, 2006

DEPARTMENT OF ENERGY  
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: January 31, 2006

Case Number: TSO-0349

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter "the Individual") for continued access authorization. This decision will consider whether, based on the testimony and other evidence presented in this proceeding, the Individual's access authorization should be restored. For the reasons detailed below, it is my decision that the Individual's access authorization should be restored.

**I. APPLICABLE REGULATIONS**

The regulations governing the Individual's eligibility are set forth at 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." Under Part 710, the DOE may suspend an individual's access authorization where "information is received that raises a question concerning an individual's continued access authorization eligibility." 10 C.F.R. § 710.10(a). After such derogatory information has been received and a question concerning an individual's eligibility to hold an access authorization has been raised, the burden shifts to the individual to prove that "the grant or restoration of access authorization to the individual would not endanger the common defense and security and would be clearly consistent with the national interest." See 10 C.F.R. § 710.27(a).

Derogatory information includes, but is not limited to, the information specified in the regulations. 10 C.F.R. § 710.8. In assessing derogatory information, the DOE considers various factors including the nature of the conduct at issue, the frequency or recency of the conduct, the absence or presence of reformation or rehabilitation, and the impact of the foregoing on the relevant security concerns. 10 C.F.R. § 710.7(c). The ultimate decision concerning eligibility is a comprehensive, common sense judgment based on a consideration of all relevant information, favorable and unfavorable. 10 C.F.R. § 710.7(a).

## **II. BACKGROUND**

The Individual has been employed by a contractor at a DOE facility in a position which requires her to have an access authorization. The Individual's employer sought to have the Individual's clearance upgraded. During the course of a Local Security Office's (LSO) background reinvestigation of the Individual, the LSO discovered derogatory information concerning the Individual's history of psychiatric illness. The LSO subsequently arranged for the Individual to be examined by a DOE-contractor psychiatrist (DOE Psychiatrist) in September 2005. The DOE Psychiatrist then issued a written evaluative report concerning the Individual.

In November 2005, the LSO informed the Individual that her history of mental illness and the DOE Psychiatrist's evaluative report constituted derogatory information that created a substantial doubt as to her continued eligibility for a security clearance under 10 C.F.R. § 710.8(h) (Criterion H). November 2005 Letter from Manager, Personnel Security Division, to Individual (Notification Letter).

A hearing was held in this matter. At the hearing, DOE presented one witness, the DOE Psychiatrist. The Individual offered her own testimony, as well as that of her psychiatrist (Individual's Psychiatrist), a supervisor who has employed her for a project, and a long-time friend. The DOE has submitted 18 exhibits for the record. The Individual submitted two exhibits, one a letter of reference and the other consisting of medical records.

## **III. ANALYSIS**

The facts in this case are essentially not in dispute. A brief summary is provided below drawn primarily from the DOE Psychiatrist's evaluative report.

The Individual suffered from a traumatic event when her boyfriend committed suicide in January 1996. DOE Exhibit (Ex.) 4 at 3. A little over a week later the Individual sought treatment from a psychiatrist (original psychiatrist). The psychiatrist noted that the Individual suffered from various symptoms such as depression, weight loss and insomnia. DOE Exhibit (Ex.) 4 at 3. His initial diagnosis of the Individual was "Major Depressive Disorder, Recurrent, Severe." Ex. 4 at 3. The Individual was prescribed an anti-depressant and an anti-anxiety drug but the Individual did not keep a follow-up appointment with the psychiatrist or remain on the prescribed medication. Ex. 4 at 3. The Individual subsequently stopped taking these medications. Ex. 4 at 3.

Approximately four months later, in May 1996, the Individual was hospitalized for a psychiatric illness. At this time the Individual reported that she had been hearing voices from a person she believed was a "white witch." Ex. 4 at 3. She also believed that information was being sent to her from her deceased boyfriend. Ex. 4 at 3. She was initially diagnosed by a psychiatrist at the hospital as suffering from Brief Reactive Psychosis. Ex. 4 at 3. She was discharged from the hospital three days later, given a prescription for an anti-anxiety drug and was referred to the

original psychiatrist. Ex. 4 at 3. The original psychiatrist saw the Individual and prescribed an additional antipsychotic medication along with the antidepressant and anti-anxiety medications he originally prescribed for the Individual.

Five days later the Individual went to the emergency room of a hospital because she felt “as if she was going to die.” Ex 4 at 4. The original psychiatrist noted the day after her visit to the emergency room that the Individual had stopped taking her medication due to hallucinations telling her not to take the medicine. Ex. 4 at 4. The original psychiatrist prescribed a different antidepressant and prescribed another antipsychotic drug. Ex. 4 at 4.

Two days after her visit to the emergency room, the Individual was admitted to a hospital for an exacerbation of her psychiatric illness. Throughout most of her six day stay at the hospital the Individual reported that she experienced auditory hallucinations such as hearing voices telling her she was a witch or that she would be punished for speaking to a nurse. Ex. 4 at 4. The Individual also admitted to having suicide-related thoughts. Ex 4 at 4. After approximately one week the Individual was discharged from the hospital. Her diagnosis at the time of discharge was “Major Depression disorder, recurrent, severe with psychotic features.” Ex. 4 at 5. The Individual was again discharged with prescriptions for the antidepressant, antipsychotic and anti-anxiety drugs she had been previously taking. Ex. 4 at 5.

The Individual continued to see the original psychiatrist from the period May 1996 to July 1996. During her appointment with the original psychiatrist in June 1996, the Individual informed him that she had stopped taking her antidepressant and one of the antipsychotic medications because of the severe side effects of those medications. The original psychiatrist then prescribed another antidepressant. Ex. 4 at 5 After an appointment with the original psychiatrist in early July 1996, the Individual stopped coming to appointments and eventually stopped taking her prescribed medications. Ex. 6 at 30; Ex. 4 at 5.

The Individual married in 1999 but then divorced in 2000. The Individual subsequently experienced depressive symptoms during 2000. She sought treatment from her primary care physician who prescribed an antidepressant. Ex. 4 at 6. Subsequently, in November 2003, the Individual experienced another bout of depression and was again prescribed an antidepressant by her primary care physician. Ex. 4 at 6.

In January 2004, the Individual went to the emergency room at a hospital with symptoms of shaking and dehydration. Ex. 4 at 6. The Individual attributed the symptoms to an excessive dose of her antidepressant drug.<sup>1</sup> Her primary care physician subsequently lowered the dose of her antidepressant drug. The Individual reported to the DOE Psychiatrist that she then stopped

---

<sup>1</sup> There seems to be some difference between the DOE Psychiatrist’s report which states she stopped taking her antidepressant drug three weeks after it was prescribed in November 2003 and the Individual’s account in an August 2004 Personnel Security Interview conducted with the Individual. *See* Ex. 4 at 6 (DOE Psychiatrist); Ex. 6 at 50-51 (2004 PSI). I have used the Individual’s account for this narrative but the difference is not significant for purposes of this decision.

taking her prescribed medication in December 2004 because of the side effects of the drugs. Ex. 4 at 7.

The record before me indicates that the LSO had sufficient grounds to invoke Criterion H. The Individual has a documented history of suffering from a depressive illness with psychotic features. As the DOE Psychiatrist testified, the hallmark of psychotic symptoms is loss of contact with reality through hallucinations or delusions. Transcript of Hearing (Tr.) at 13. A person who experiences command hallucinations, hallucinations where a voice inside a person is instructing them to perform a particular action, presents an obvious security concern. Tr. at 20. Consequently, the LSO had sufficient grounds to invoke Criterion H.

In mitigation of the Criterion H concerns raised by the derogatory information presented in the Notification Letter, the Individual asserts that her current condition presents very little chance that she would ever again suffer psychotic symptoms. In opposition, the DOE Psychiatrist believes that the Individual's history of depressive illness with psychotic symptoms plus her predilection for stopping antidepressive medication abruptly results in a significant likelihood that the Individual may suffer from psychotic symptoms in the future.

At the hearing, the DOE Psychiatrist reiterated his opinion that the Individual suffers from recurrent depression with psychotic features. Tr. at 12. He stated that the Individual will continue to have a vulnerability to suffer from future depressions. Tr. at 16. As of the date of the hearing, the DOE Psychiatrist found that the Individual has suffered from five previous episodes of depressive disorder and would likely suffer from future episodes of depression. Tr. at 16. The DOE Psychiatrist stated that while none of the previous depressive episodes involved psychotic symptoms, these symptoms may have been "blunted" due to the fact that she was already taking antipsychotic medications at the time of the episode. Tr. at 18. He further testified that if a person has suffered from psychotic symptoms with a past depressive episode, such symptoms are more likely to occur in a future depression. Tr. at 18-19, 39. This would be especially true if the Individual experienced another loss of a boyfriend or similar stressful event. Tr. at 28.

The DOE Psychiatrist was also concerned by the Individual's history of non-compliance with her prescribed medications. Tr. at 20. He recognized that this was caused by a combination of factors, including the significant side effects that her prescribed antipsychotic medication can have on individuals such as drooling and stiffness. Tr. at 20-21. He was further concerned by the Individual's failure to consult her physician before stopping the medications. Tr. at 21. The Individual's future judgment and reliability is of concern to the DOE Psychiatrist because of the Individual's history of depressive episodes with psychotic symptoms and the Individual's failure to manage the illness responsibly as demonstrated by her non-compliance with her prescribed medication regime. Tr. at 22, 29.

The DOE Psychiatrist recommended that, given the Individual's history, she be treated on a continuing basis with one of the antidepressants and an antipsychotic that the Individual has

tolerated well in the past. Tr. at 24. He also recommended psychotherapy or counseling due to the dysfunctional family relationships she has experienced in her life. Tr. at 33.

After listening to the Individual and the Individual's Psychiatrist testify (see below), the DOE Psychiatrist opined that he believed that the Individual would have a "one-fifth of 80 percent" chance of suffering another depressive episode over the next five years. Tr. at 161. During that future episode, she could possibly demonstrate psychotic symptoms. Tr. at 164.

At the hearing the Individual testified that she stopped taking her antidepressant medication because none of her physicians ever informed her that she would have to take the medicine for the rest of her life. Tr. at 98. Instead, she believed that she no longer had to take the medication once she started feeling better. Tr. at 98. She does realize now that one should not abruptly discontinue antidepressants. Tr. at 105. She also testified that as a single mother she at times had to discontinue receiving psychiatric help due to financial concerns. Tr. at 98. Currently she sees a psychiatrist once a month. Tr. at 98. At present she is not taking any antidepressant medication nor has her current psychiatrist prescribed any antidepressants. Tr. at 101.

The Individual also testified that she believes she is a much different person from the one she was in 1996. Since the occurrence of the psychotic symptoms in 1996, the Individual has gone through a number of stressful events and not had any recurrence of those symptoms. The Individual has had to endure litigation with her ex-husband concerning child support. Tr. at 99. Additionally, the Individual has purchased a house as well as another piece of property. Tr. at 99. She believes that she needs to be a strong person for her children. Tr. at 103.

The Individual's Psychiatrist also testified. She has diagnosed the Individual as suffering from Post Traumatic Stress Disorder (PTSD), Major Depressive Disorder, Recurrent, and Psychotic Disorder NOS (not otherwise specified). Tr. at 113. She believes that the Individual experienced PTSD as a result of the suicide of the Individual's boyfriend. The Individual's Psychiatrist further testified that the sleep deprivation the Individual experienced for four months after the suicide may have triggered her psychotic symptoms. Tr. at 113. Because the Individual is currently not depressed or suffering from psychotic symptoms, the Individual's Psychiatrist has not prescribed any medications for the Individual. Tr. at 117-18, 123-24, 130.

Because of the Individual's prior history of depression the Individual's Psychiatrist believes that it is probable that the Individual will become depressed again but that she will nevertheless be able to carry out the important responsibilities of holding a job and caring for her children. Tr. at 117-18. With regard to the Individual's chances of experiencing psychotic symptoms in the future, the Individual's Psychiatrist testified that

I'm just suggesting that she's had multiple episodes of severe stress and not been psychotic, and she's tolerated the stress -- for instance, growing up in a chaotic home, lot of domestic violence, and she was nevertheless able to go to school, finish high school. She was severely physically abused by her husband, and she

did not become psychotic. She's had significant financial stressors, she's not become psychotic. She's a single parent. She's always worked, she's always done well at her job.

So the only factor that's significantly different -- and on those, she's -- you know, as [the DOE Psychiatrist] pointed out, she's had five different depressions, but she did not become psychotic at all of them, only on one, so whether she will become psychotic in the future, I can't tell you, but I can certainly tell her not to become sleep deprived, because that, I believe, probably contributed to her situation.

Tr. at 115. When asked if the Individual may have a defect in judgment in the future, the Individual's Psychiatrist stated that it was difficult to predict future behavior but believed that there is a "low probability of a disaster" concerning the Individual's behavior based in part on the rapport she has with the Individual. Tr. at 118-19. She believes that the Individual has better insight as to herself and has matured. Tr. at 127-28.

After considering all of the evidence and testimony presented in this case, I find that the Individual has sufficiently mitigated the security concern raised by her history of depression and the diagnosis of recurrent depression with psychotic symptoms. It is not the possibility that Individual's may experience future depressions itself that raises the security concern but the possibility of the Individual experiencing psychotic symptoms with a future depression that is the security concern in this case. I find it very significant that her last documented incident of psychotic symptoms occurred approximately ten years ago. The Individual has experienced a number of bouts with depression since then without demonstrating psychotic symptoms even in the face of significant non-compliance with taking her prescribed medications.<sup>2</sup> Further, despite this history of depression and the considerable amount of stressful situations she encountered, she seems to have fulfilled all of her responsibilities as a parent and employee. *See* Tr. at 64, 72 (testimony from supervisor); Tr. at 84-85 (testimony from a friend). While I do not dispute the DOE Psychiatrist's opinion concerning the probability of the Individual experiencing depression in the future, this does not in itself quantify the chances that she will experience psychotic symptoms with such future depression. The Individual's Psychiatrist's testimony indicates that the chances that the Individual will suffer psychotic symptoms in the future are low. Given the record before me, I find that the Individual has presented sufficient evidence to resolve the Criterion H derogatory information.<sup>3</sup>

---

<sup>2</sup> I note that the DOE Psychiatrist suggests the possibility that she may have suffered from psychotic symptoms ("blunted" symptoms) in some of her other bouts of depression. Tr. at 18. My review of the medical records presented into evidence does not show any indication that the Individual suffered from psychotic symptoms other than in 1996.

<sup>3</sup> The DOE Psychiatrist testimony suggests that he would have opined differently if the Individual was currently being treated with prophylactic doses of an antidepressant and an antipsychotic. Tr. at 24-25. Additionally, the Individual's history of noncompliance with her prescribed medications was a factor in his opinion and was cited in the notification letter. Tr. at 22-24. As my decision above indicates, I find that, even in the Individual's current state of not being treated with medication, the Criterion H information has been mitigated. Consequently, I do not find the

#### **IV. CONCLUSION**

As explained above, I find that the security concerns related to the Individual's history of depression and her diagnosis of Recurrent Depression with Psychotic Features (Criterion H derogatory information) has been resolved. I conclude that restoring the Individual's access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Consequently, the Individual's access authorization should be restored. The parties may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Richard A. Cronin, Jr.  
Hearing Officer  
Office of Hearings and Appeals

Date: November 14, 2006

---

Individual's history of non-compliance with her regime of medications a bar to restoring her clearance given her testimony that she is aware of the need not to abruptly discontinue medication without informing a physician.

Concurrence

hg-03 rac 8/16/06

Cronin \_\_\_\_\_